

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky. No. 04-34303 (DDO)

Toby A. Dietzler,

Chapter 13 Case

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: Debtor, and other entities specified in Local Rule 9013-3.

1. M & I Dealer Finance, Inc. ("Movant") hereby gives notice that a hearing on its Motion for Relief from Stay will be held at 9:30 a.m. on October 6, 2004 in Courtroom No. 228A, at the U.S. Bankruptcy Court, U.S. Courthouse, at 316 North Robert Street, St. Paul, Minnesota, or as soon thereafter as counsel can be heard.

2. Any response to this motion must be filed and delivered not later than October 1, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than September 27, 2004, which is seven (7) days before the time set for hearing (excluding Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

3. Movant brings this motion pursuant to 11 U.S.C. § 362 and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9019-1. This proceeding involves a claim by Movant on a debt secured by certain personal property of Debtor which is subject

to a Retail Installment Contract and Security Agreement held by Movant and which property is more fully described as:

1999 Chevrolet Venture, VIN #1GNDU03E7XD100460 (the “Vehicle”)

Movant requests relief from the automatic stay to enforce its security interests in the Vehicle.

4. The Court has authority to hear and finally determine this motion pursuant to 28 U.S.C. §§ 1334 and 157, 11 U.S.C. § 362(d), and Bankruptcy Rule 5005 and Local Rule 1070-1. The determination of this motion constitutes a core proceeding pursuant to 11 U.S.C. § 157(b)(2)(G). The petition commencing this Chapter 13 case was filed on July 26, 2004. Debtor’s case is now pending in the Court.

5. On or about December 13, 2001, Toby A. Dietzler executed a Retail Installment Contract and Security Agreement in favor of M & I Dealer Finance, Inc. Copies of the Security Agreement, together with evidence of perfection of Movant’s interest in a 1999 Chevrolet Venture, VIN #1GNDU03E7XD100460, are attached as Exhibits A and are incorporated herein by this reference.

6. Movant’s interest is depreciating, while Debtor is failing to make payments. Movant does not have, and has not been offered, adequate protection of its interest in the Vehicle.

7. The total indebtedness to Movant, as of August 11, 2004, is as follows:

Principal:	\$9,352.58
Interest (to August 11, 2004):	288.14
Late Charges:	31.56
Motion Fees & Costs:	800.00
Repossession Fees	350.00
TOTAL	\$10,822.28

Interest continues to accrue on the indebtedness at a per diem rate of \$2.07.

8. Prior to the filing of Debtor's bankruptcy petition, Movant repossessed the Vehicle and, to facilitate sale of the vehicle, applied for a new Certificate of Title for the Vehicle. The Certificate of Title was issued on July 8, 2004. However, as of the date of the filing of the bankruptcy petition, Movant had not yet sold the vehicle.

9. Debtor did not list the vehicle in his schedules, but rather indicated the Vehicle had been repossessed prior to the filing of his bankruptcy petition. Debtor's plan makes no provision for payment of Movant's secured claim. Debtor apparently wishes to surrender the vehicle to Movant.

10. The wholesale value of the Vehicle is \$4,840.00.

11. Movant requests that any order modifying the automatic stay be effective immediately as allowed under Federal Bankruptcy Rule 4001(a)(3).

WHEREFORE, M & I Dealer Finance, Inc., respectfully moves the Court for an order modifying the automatic stay provided by 11 U.S.C. § 362(a) for itself and its successors and assignees to foreclose its security interest on the Vehicle in accordance with Minnesota law and granting such other relief as may be just and equitable.

Date: August 25, 2004

BEST & FLANAGAN LLP

By /s/ Patrick B. Hennessy
Patrick B. Hennessy
Attorney Registration No. 124412
Attorneys for M & I Dealer Finance, Inc.
225 South Sixth Street, Suite 4000
Minneapolis, MN 55402
(612) 339-7121

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky. No. 04-34303 (DDO)

Toby A. Dietzler,

Chapter 13 Case

Debtor.

**UNSWORN VERIFICATION AND
DECLARATION REGARDING ELECTRONIC FILING**

Diane Volletz declares under penalty of perjury under the laws of the United States that:

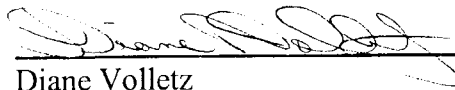
1. I am the Bankruptcy Specialist for M & I Dealer Finance, Inc., ("Movant") and I have been duly authorized by it to verify Movant's Motion for Relief from Stay dated August 25, 2004, (the "Motion") to be filed in the above captioned bankruptcy case.

2. I have read the Motion, know its contents, and state that the same are true and correct to the best of my knowledge, information and belief.

3. I understand that our attorney will scan this Verification and save it in a PDF format to be inserted into the electronic submission of this motion.

4. I consent to the Motion being filed electronically by our attorney with the Clerk of the United States Bankruptcy Court, and that Movant's attorney, Best & Flanagan LLP, will retain the original in its file.*

Dated: ^{Sept. 2} August 2, 2004.


Diane Volletz

* Best & Flanagan LLP will retain the original of this unsworn declaration in its file for 2 years.

RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT No. Date 12/13/2001	Seller FURLONG MOTORS PO BOX 448, 1600 CANNON LANE NORTHFIELD, MN 55057 "We" and "us" mean the Seller above, its successors and assigns.	Buyer TOBY ALAN DIETZLER 1621 SO PARK STREET REDWING, MN 55066 "You" and "your" mean each Buyer above, and guarantor, jointly and individually.

SALE: You agree to purchase from us, over time, the Motor Vehicle (Vehicle) and services described below. Your purchase is subject to the terms and conditions of this contract and security agreement (Contract). The Vehicle is sold in its present condition, together with the usual accessories and attachments.

Description of	Year	1999	VIN	1GNDU03E7XD100460	Other:
Motor Vehicle	Make	CHEVROLET	Lic. No./Year		
Purchased	Model	VENTURE	<input type="checkbox"/> New <input checked="" type="checkbox"/> Used		

Description of Trade-In **N/A**

SECURITY: To secure your payment and performance under the terms of this Contract, you give us a security interest in the Vehicle, all accessions, attachments, accessories, and equipment placed in or on the Vehicle, together called Property, and proceeds of the Property. You also assign to us and give us a security interest in proceeds and premium refunds of any insurance and service contracts purchased with this Contract.

PROMISE TO PAY AND PAYMENT TERMS: You promise to pay us the principal amount of \$ 15531.50, plus finance charges accruing on the unpaid balance at the rate of 8.0900% per year from today's date until paid in full. Finance charges accrue on a 365 day basis. You agree to pay this Contract according to the payment schedule and late charge provisions shown in the TRUTH IN LENDING DISCLOSURES. You also agree to pay any additional amounts according to the terms and conditions of this Contract.

☐ **LOAN ADMINISTRATION FEE:** You agree to pay an additional, nonrefundable loan administration fee of \$25.00 that will be ☐ paid in cash. ☐ paid pro rata over the contract term. ☐ withheld from the proceeds (if this fee is withheld from the proceeds, the amount is included in the principal sum).

DOWN PAYMENT: You also agree to pay, or apply to the Cash Price, on or before today's date, any cash, rebate and net trade-in value described in the ITEMIZATION OF AMOUNT FINANCED. ☐ You agree to make deferred payments as part of the cash down payment as reflected in your Payment Schedule.

TRUTH IN LENDING DISCLOSURES

ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost you.	AMOUNT FINANCED The amount of credit provided to you or on your behalf.	TOTAL OF PAYMENTS The amount you will have paid when you have made all scheduled payments.	TOTAL SALE PRICE The total cost of your purchase on credit, including your down payment of
8.09 %	\$ 3408.10	\$ 15531.50	\$ 18939.60	\$ 1500.00 \$ 20439.60

Payment Schedule: Your payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
60	315.66	MONTHLY BEGINNING 01/14/2002

Security: You are giving a security interest in the Motor Vehicle purchased.

☒ **Late Charge:** If a payment is more than 10 days late, you will be charged \$5.72 OR 5% OF PAYMENT, WHICHEVER IS GREATER. ☐ This amount may increase so as to always be the highest amount allowed by law under Minn. Stat. § 47.59.

Prepayment: If you pay off this Contract early, you will not have to pay a penalty.

☐ If you pay off this Contract early, you will not be entitled to a refund of part of the loan administration fee.

Contract Provisions: You can see the terms of this Contract for any additional information about nonpayment, default, any required repayment before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and we will not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.

Credit Life: Insured ☐ Single ☐ Joint Prem. \$ N/A Term N/A

Credit Disability: Insured ☐ Single ☐ Joint Prem. \$ N/A Term N/A

ITEMIZATION OF AMOUNT FINANCED

Vehicle Price (incl. sales tax of \$ <u>936.00</u>)	\$ <u>15336.00</u>
Service Contract, Paid to: <u>MASTER TECH</u>	\$ <u>1550.00</u>
Cash Price	\$ <u>16886.00</u>
Manufacturer's Rebate	\$ <u>N/A</u>
Cash Down Payment	\$ <u>1500.00</u>
Deferred Down Payment	\$ <u>N/A</u>
a. Total Cash/Rebate Down	\$ <u>1500.00</u>
b. Trade-In Allowance	\$ <u>N/A</u>
c. Less: Amount owing	\$ <u>N/A</u>
Paid to:	
d. Net Trade-In (b. minus c.)	\$ <u>N/A</u>
e. Net Cash/Trade-In (a. plus d.)	\$ <u>1500.00</u>
Down Payment (e.; disclose as \$0 if negative)	\$ <u>1500.00</u>
Unpaid Balance of Cash Price	\$ <u>15386.00</u>

Your signature below means you want (only) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverages we offered.

Payment Schedule: Your payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
60	315.66	MONTHLY BEGINNING 01/14/2002

Security: You are giving a security interest in the Motor Vehicle purchased.

☒ **Late Charge:** If a payment is more than 10 days late, you will be charged \$5.72 OR 5% OF PAYMENT, WHICHEVER IS GREATER. ☐ This amount may increase so as to always be the highest amount allowed by law under Minn. Stat. § 47.59.

Prepayment: If you pay off this Contract early, you will not have to pay a penalty.☐ If you pay off this Contract early, you will not be entitled to a refund of part of the loan administration fee.**Contract Provisions:** You can see the terms of this Contract for any additional information about nonpayment, default, any required repayment before the scheduled date, and prepayment refunds and penalties.

CREDIT INSURANCE: Credit life, credit disability (accident and health), and any other insurance coverage quoted below, are not required to obtain credit and we will not provide them unless you sign and agree to pay the additional premium. If you want such insurance, we will obtain it for you (if you qualify for coverage). We are quoting below ONLY the coverages you have chosen to purchase.

Credit Life: Insured☐ Single ☐ Joint Prem. \$ N/A Term N/A**Credit Disability:** Insured☐ Single ☐ Joint Prem. \$ N/A Term N/A

Your signature below means you want (only) the insurance coverage(s) quoted above. If none are quoted, you have declined any coverages we offered.

9AD 8-17-60
 Buyer d/o/b Buyer d/o/b

PROPERTY INSURANCE: You must insure the Property securing this Contract. You may purchase or provide the insurance through any insurance company reasonably acceptable to us. The collision coverage deductible may not exceed \$ N/A. If you get insurance from or through us you will pay \$ N/A for _____ of coverage.

This premium is calculated as follows:

☐ \$ N/A Deductible, Collision Coverage \$ N/A
☐ \$ N/A Deductible, Comprehensive Cov. \$ N/A
☐ Fire-Theft and Combined Additional Coverage \$ N/A
☐ _____ \$ N/A

Liability insurance coverage for bodily injury and motor vehicle damage caused to others is not included in this Contract unless checked and indicated.

☒ **MOTOR VEHICLE SERVICE CONTRACT:** With your purchase of the Vehicle, you agree to purchase a Motor Vehicle Service Contract to cover _____

This Service Contract will be in effect for 72 months or 75000 miles.

ASSIGNMENT: This Contract and Security Agreement is assigned to M&T DEALER FINANCE, INC. This assignment is made ☐ under the terms of a separate agreement. ☐ under the terms of the ASSIGNMENT BY SELLER on page 2. ☐ This assignment is made with recourse.
 Seller: By FURLONG MOTORS Date 12/13/2001

MINNESOTA RETAIL INSTALLMENT CONTRACT AND SECURITY AGREEMENT

© 1982, 1995 Bankers Systems, Inc., St. Cloud, MN Form RS-SI-MV-MN 5/27/99

ITEMIZATION OF AMOUNT FINANCEDVehicle Price (incl. sales tax of \$ 936.00) \$ 15336.00Service Contract, Paid to: MASTER TECH * \$ 1550.00Cash Price \$ 16886.00Manufacturer's Rebate \$ N/ACash Down Payment \$ 1500.00Deferred Down Payment \$ N/Aa. Total Cash/Rebate Down \$ 1500.00b. Trade-In Allowance \$ N/Ac. Less: Amount owing \$ N/A

Paid to:

d. Net Trade-In (b. minus c.) \$ N/Ae. Net Cash/Trade-In (a. plus d.) \$ 1500.00**Down Payment** (e.; disclose as \$0 if negative) \$ 1500.00**Unpaid Balance of Cash Price** \$ 15386.00Paid to Public Officials - Filing Fees \$ 120.50Insurance Premiums* \$ N/AAmount to Finance line e. (if e. is negative) \$ 0.00To: DOC FEE PD TO DEALER \$ 25.00To: _____ \$ N/ATo: _____ \$ N/ATo: _____ \$ N/A**Total Other Charges/Amounts Pd. to Others** \$ 145.50Less: **Prepaid Finance Charges** \$ N/A**Amount Financed** \$ 15531.50

*We may retain or receive a portion of this amount.

NOTICE TO BUYER

(1) Do not sign this agreement before you read it or if it contains any blank spaces. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) **IMPORTANT: THIS MAY BE A BINDING CONTRACT AND YOU MAY LOSE ANY DEPOSITS IF YOU DO NOT PERFORM ACCORDING TO ITS TERMS.**

BY SIGNING BELOW BUYER AGREES TO THE TERMS ON PAGES 1 AND 2 OF THIS CONTRACT AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS CONTRACT.

Buyer: Polay Dichter
 Signature 12/13/2001

Signature _____ Date _____

Seller: By [Signature] [Signature] [Signature]

(page 1 of 2)

MOTOR VEHICLE - NOT FOR MANUFACTURED HOMES

STATE OF MINNESOTA

CERTIFICATE OF TITLE FOR A MOTOR VEHICLE

VEHICLE IDENTIFICATION NUMBER 16NDU03E7XD100460	YEAR 99	MAKE CHEV	MODEL/BDY SV VTR	TITLE NUMBER W1900S079
DATE ISSUED 07/08/04	ODOMETER 72165	TAX BASE 022625	CODE 09	PLATE NUMBER HLF784
EXP 11				CENTRAL OFFICE USE ONLY



NO SECURITY INTERESTS DOB

Dietzler
22082907

324452
m&I

OWNER
M&I DEALER FINANCE

14101 SOUTHCROSS DR W #150
BURNSVILLE MN 55337-6905



ASSIGNMENT OF OWNERSHIP — BUYER(S) MUST COMPLETE THE APPLICATION ON THE BACK

ODOMETER DISCLOSURE STATEMENT. I (WE) CERTIFY THAT THE ODOMETER NOW READS (NO TENTHS) MILES AND TO THE BEST OF MY KNOWLEDGE THE ODOMETER MILEAGE IS:

☐ ACTUAL MILEAGE

☐ EXCEEDS MECHANICAL LIMITS OF ODOMETER

☐ NOT ACTUAL MILEAGE — WARNING ODOMETER DISCREPANCY

DAMAGE DISCLOSURE STATEMENT. TO THE BEST OF MY KNOWLEDGE THIS VEHICLE

☐ HAS ☐ HAS NOT (CHECK ONE) SUSTAINED DAMAGE IN EXCESS OF 70% ACTUAL CASH VALUE.

POLLUTION SYSTEM DISCLOSURE STATEMENT. TO THE BEST OF MY KNOWLEDGE THE POLLUTION CONTROL SYSTEM ON THIS VEHICLE INCLUDING THE RESTRICTED GASOLINE PIPE

☐ HAS ☐ HAS NOT (CHECK ONE) BEEN REMOVED, ALTERED OR RENDERED INOPERATIVE.

Assignment: I (we) certify that this vehicle is free from all security interests, warrant title, and assign the registration tax and vehicle to:

SELLER'S PRINTED NAME(S)

DATE OF SALE

BUYER'S PRINTED NAME(S)

SELLER'S ADDRESS

DEALER LICENSE #

BUYER'S ADDRESS

SELLER'S SIGNATURE(S)

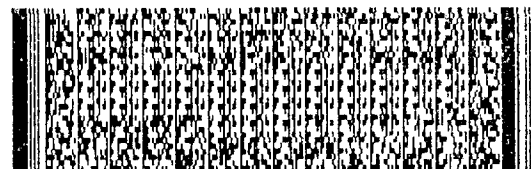
BUYER'S SIGNATURE(S)

IMPORTANT — PLEASE READ: All information collected on a motor vehicle application is required by law and is used to identify your motor vehicle. Failure to provide required information may result in denial of the requested action. Except for certain uses permitted by federal and state laws, personal information contained in your application may not be disclosed to anyone without your express consent. You may expressly consent to the disclosure of your information by writing to the following address:

MINNESOTA DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION
445 MINNESOTA STREET, ST. PAUL, MINNESOTA 55101
PHONE 651-297-2126 TTY 651-282-6555
mndriveinfo.org



PS2700-13



KEEP IN A SAFE PLACE - ANY ALTERATION OR ERASURE VOIDS THIS TITLE

SELLER'S NOTICE OF SALE

When you sell this vehicle, you are responsible to file the information below with the Department of Public Safety within 10 days. Please file this information over the Internet at mndriveinfo.org or complete all information on this post card and submit by mail. **This notice is not required if sold to a licensed dealer.**

Minnesota Statute 168A.10



W1900S079

Title Number

16NDU03E7XD100460

Vehicle Identification Number

Date of Sale

Purchaser's Driver License Number

Purchaser's Full Name

Purchaser's Date of Birth

Street Address

City

County

State

Zip Code

PLEASE PRINT

MINNESOTA MOTOR VEHICLE REGISTRATION CARD

YR 99 MK CHEV MDL SV VTR

VIN 16NDU03E7XD100460

GROSS VEHICLE WEIGHT/BASE VALUE 022625

PLATE # HLF784

EXP 11/30/04

STICKER # 02437435

TAX 99.00

RECORDED OWNER(S):

M&I DEALER FINANCE

14101 SOUTHCROSS DR W #150
BURNSVILLE MN 55337-6905

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky. No. 04-34303 (DDO)

Toby A. Dietzler,

Chapter 13 Case

Debtor.

**MEMORANDUM IN SUPPORT OF
MOTION FOR RELIEF FROM STAY**

STATEMENT OF FACTS

M & I Dealer Finance, Inc., a secured creditor of Debtor, has moved for relief from the stay provided by 11 U.S.C. § 362(a) with respect to property of the estate or Debtor as described in the motion. Movant requests relief under 11 U.S.C. § 362.

Movant holds a perfected interest in a 1999 Chevrolet Venture, with a vehicle identification number (VIN) of #1GNDU03E7XD100460 (the "Vehicle"). The balance due under the Contract is \$10,822.28 as of August 11, 2004. On information and belief, the wholesale value of the Vehicle is approximately \$4,840.00. Over a month prior to the bankruptcy petition being filed, Movant repossessed the Vehicle, but had not yet completed sale of the Vehicle. Debtor has little or no equity in the Vehicle.

ARGUMENT

Lack of Equity

1. With respect to property of Debtor or the estate, 11 U.S.C. § 362(d)(2) provides that the Court may terminate or modify the automatic stay if:

- (A) The debtor does not have an equity in such property; and
- (B) Such property is not necessary to an effective reorganization.

2. Debtor has no equity in the vehicle. The debt exceeds the value which would be obtained by Movant in selling the vehicle.

3. Debtor made no provision for payment of Movant's secured debt in Debtor's plan and apparently intends to allow Movant to complete its foreclosure and sale of the vehicle.

4. Pursuant to Section 362(d)(1) of the Bankruptcy Code, relief from the automatic stay shall be granted upon request of a creditor for "cause", which includes the "lack of adequate protection of an interest in property of [the creditor]". 11 U.S.C. Section 362(d)(1).

5. Movant is not adequately protected. Debtor has failed to make the required payments under the Promissory Notes and Security Agreements or to propose a payment plan on Movant's secured loan. Such failure constitutes cause within the meaning of Section 362(d)(1) entitling Movant to relief from the stay. United Savings Assn. of Texas v. Timbers of Inwood Forest Assoc., Ltd. (In re Timbers of Inwood Assoc., Ltd.), 484 U.S. 365, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988).

Dated: August 25, 2004.

BEST & FLANAGAN LLP

By /e/ Patrick B. Hennessy
Patrick B. Hennessy
Attorney Registration No. 124412
Attorneys for M & I Dealer Finance
225 South Sixth Street, Suite 4000
Minneapolis, MN 55402-4690
(612) 339-7121

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky. No. 04-34303 (DDO)

Toby Dietzler,

Chapter 13 Case

Debtor.

**DECLARATION REGARDING ELECTRONIC FILING AND
UNSWORN CERTIFICATE OF SERVICE**

I, Kathryn J. Dahl, declare under penalty of perjury that on September 10, 2004, I mailed copies of the Notice of Hearing and Motion for Relief From Stay, Memorandum of Law, and proposed Order Modifying Automatic Stay of August 25, 2004, which documents were electronically filed on September 10, 2004, by first class mail postage prepaid to each entity named below at the address stated below for each entity.

I will scan the original of this Declaration and save it in PDF format and understand it will be inserted into the electronic submission of the motion. I consent to this Declaration being electronically filed with the United States Bankruptcy Court. Best & Flanagan LLP will retain the original of this unsworn declaration in its file for 2 years.

Toby A. Dietzler
2295 Bevans Circle
Red Wing, MN 55066-3901

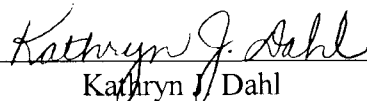
Jasmine Z. Keller, Trustee
310 Plymouth Building
12 South Sixth Street
Minneapolis, MN 55402

James Skonnord
Attorney at Law
311 Ramsey Street
St. Paul, MN 55102

Office of the U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Executed on: September 10, 2004.

Signed: _____



Kathryn J. Dahl
Best & Flanagan LLP
225 South Sixth Street, Suite 4000
Minneapolis, MN 55402

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Bky. No. 04-34303 (DDO)

Toby A. Dietzler,

Chapter 13 Case

Debtor.

ORDER MODIFYING AUTOMATIC STAY

This matter came before the Court for hearing on October 6, 2004, on the motion of M & I Dealer Finance, Inc. ("Movant") for relief from the automatic stay to enforce its security interest in:

1999 Chevrolet Venture, VIN #1GN DU03E7XD100460 (the "Vehicle")

Appearances of counsel were noted on the record. Counsel were heard. Based upon the verified Motion of movant, supporting Memorandum, the files and records herein, and arguments of counsel:

IT IS HEREBY ORDERED that the automatic stay provided by 11 U.S.C. § 362 is immediately terminated to allow M & I Dealer Finance, Inc., its successors, and/or its assignees to foreclose on the 1999 Chevrolet Venture, VIN #1GN DU03E7XD100460 in accordance with Minnesota law.

Notwithstanding Fed.R. Bankr. P. 4001(a)(3), this order is effective immediately.

Dated: October _____, 2004.

Dennis D. O'Brien
U.S. Bankruptcy Judge